

**House Committee on Energy and Commerce
Subcommittee on Oversight and Investigations**

**Hearing on
“Oversight of Federal Efforts to Combat the Spread of Illicit Fentanyl”**

July 16, 2019

Mr. Kemp Chester, Assistant Director of the National Opioids and Synthetics Coordination Group, Office of National Drug Control Policy, Executive Office of the President

The Honorable Frank Pallone, Jr. (D-NJ)

1. A key role of the Office of National Drug Control Policy (ONDCP) is to coordinate the federal agencies that have responsibility for the prevention, treatment, and enforcement of drug control activities in the United States. In your testimony, you cite ONDCP efforts to coordinate these agencies in addressing the fentanyl crisis, including through meetings, video teleconferences, and webinars.
 - a. What has been the effect of this coordination? What tangible results have occurred because of these coordination efforts?

ANSWER: The Office of National Drug Control Policy (ONDCP) leads the interagency effort to implement the *National Drug Control Strategy* (NDCS), which clearly establishes the strategic framework that guides the Federal Government’s efforts to reduce both the supply and the demand for illicit fentanyl and its analogues in the United States, and indeed all drugs that are harming individuals and negatively impacting the safety of America’s communities.

The three fundamental elements that form the heart of the NDCS -- prevention, treatment and recovery, and reducing availability -- are complementary and mutually supporting. Implementation includes preventing initiates to illicit drug use through education and evidence-based prevention programs. It also involves providing treatment services leading to long-term recovery for those suffering from substance use disorder. By reducing the number of individuals who use illicit drugs, we diminish the market forces pulling illicit drugs across our borders and into our communities.

To reduce the availability of illicit drugs, ONDCP works with our international partners to combat illicit internet drug sales and educate them and others with respect to mail and express consignment delivery services. Domestically, ONDCP works with Customs and Border Protection (CBP) to prevent illicit drugs from entering the United States at the borders and ports of entry and with the Treasury Department to identify and forfeit drug proceeds.

ONDCP’s monthly coordination engagements are outlined in the response to question 2b below. The most tangible result has been the increase in interagency liaisons detailed to the Federal fusion centers and task forces outlined in the response to question 2a below. More recently, the

addition of 13 counties across 12 states to ONDCP's High Intensity Drug Trafficking Areas (HIDTA) program (<https://www.whitehouse.gov/briefings-statements/ondcp-designates-13-new-counties-curb-drug-trafficking/> and <https://www.whitehouse.gov/wp-content/uploads/2017/12/HIDTA-Map.pdf>) speaks to the continued successful coordination of Federal, State, local, and tribal law enforcement agencies combating drug activities in the United States. In August 2019, ONDCP coordinated the interagency release of four advisories addressing the manufacturing, marketing, movement, and money associated with illicit fentanyl trafficking (<https://www.whitehouse.gov/wp-content/uploads/2019/08/White-House-Fentanyl-Advisories-Summary.pdf>).

b. How does ONDCP measure success as it relates to addressing the fentanyl crisis?

ANSWER: The number one measure of ONDCP's success is reducing the number of Americans dying from drug overdose. Additional measures of success can be found in ONDCP's National Drug Control Strategy Performance Reporting System (https://www.whitehouse.gov/wp-content/uploads/2019/05/ONDCP_PRS.pdf).

2. Some agencies have told the Committee they have experienced difficulties receiving information or data from other agencies that could be helpful in identifying leads or developing cases related to illicit fentanyl.

a. What issues has ONDCP identified in information sharing between agencies working to counter the threat of fentanyl?

ANSWER: Efforts such as ONDCP's HIDTA program, DOJ's Organized Crime and Drug Enforcement Task Forces, and CBP's National Targeting Center leverage state, local, tribal, and Federal partners to ensure that all agencies are working to counter the threat of fentanyl. They share information, are properly resourced, and are able to maximize unique capabilities and capacity. ONDCP fully supports these fusion cells and centers of excellence.

b. What steps has ONDCP taken to resolve those issues, and what have been the results?

ANSWER: In an effort to increase connectivity and facilitate interagency collaboration, ONDCP hosts monthly engagements across Federal, state, local, and tribal professionals.

- Weekly classified secure video teleconferences (SVTCs) focus the intelligence community, to include five eye partners, on the collection, analysis, and production needed to answer policymaker questions and share intelligence.
- Monthly video teleconference (VTC) with U.S. Embassy Mexico emphasizes U.S. priorities in Mexico such as eradication, lab identification, and capacity building in Mexico.
- Monthly VTC with U.S. Embassy Beijing coordinates policy on the U.S. approach with China to address fentanyl and synthetic opioids.

- Monthly Federal law enforcement SVTCs facilitate information sharing on major active cases between Federal law enforcement agencies to ensure coordination of all Federal capabilities.
- Monthly nationwide webinars provide a platform for partner states (five per U.S. census region) to collaborate and share public health and public safety trends, best practices, and lessons learned.

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The Honorable Brett Guthrie (R-KY)

1. In October 2017, the U.S. Department of Justice announced the first indictments against Chinese nationals who were manufacturers and distributors of fentanyl. Even though there is little prospect that the Chinese nationals will ever be in an American courtroom, what is the purpose and impact of indicting Chinese nationals for illicit fentanyl trafficking?

ANSWER: The formal indictment and designation of these individuals as Consolidated Priority Organization Targets, or CPOTs, is crucial. These procedures create additional opportunities for law enforcement agencies, domestic and international, to disrupt and dismantle the criminal apparatus supporting these individuals and their international drug trafficking actions. Without these indictments or designations, future law enforcement actions may be limited.

In addition, Federal indictment of Chinese drug traffickers can result in official designation by the Treasury Department’s Office of Foreign Asset Control (OFAC) for sanctions of these targets under the Foreign Narcotics Kingpin Designation Act (Kingpin Act). These sanctions have an immediate and visceral effect on drug traffickers. Upon a sanctions designation, all property and interests in property of these individuals and entities that are in the United States or in the possession or control of U.S. persons must be blocked and reported to OFAC. OFAC’s regulations generally prohibit all dealings by U.S. persons or within (or transiting) the United States that involve any property or interests in property of blocked or designated persons. The sanctions therefore cut off Chinese drug traffickers from their existing assets and generally prevent them from engaging in any commerce that involves the United States or any interests that touch the U.S. economy.

2. How many different fentanyl analogs have been identified as coming from China?

ANSWER: Between 2010 and July 2019, fentanyl plus at least 39 unique fentanyl analogues have been seen in Federal, state, local, and international forensics laboratories, many if not all are believed to be of Chinese origin.

3. What are some of the common ways in which fentanyl is trafficked from China to the United States?

ANSWER: The most common method is transshipment through Mexican drug trafficking organizations (DTOs). This has generally occurred at our Southwest border. According to the United States Postal Inspection Service (USPIS), synthetic opioid and fentanyl seizure statistics for Fiscal Year 2019 illustrated a sharp decrease in international seizures, while domestic seizures have correspondingly increased. A majority of these domestic mailings originated from states close to the Southwest border, such as California and Arizona. USPIS has also seen an increase in smaller mailings originating from Canada. Other methods of for fentanyl to be trafficked from China to the United States include bulk shipments, 100 to 1,000 grams, through express consignment carriers (e.g., FedEx, UPS, DHL) and smaller quantity shipments, under 100 grams, through the United States Postal Service.

4. Diplomacy and law enforcement each have a vital role in the fight against fentanyl. However, like the efforts against rogue internet pharmacies a few years ago, I understand a strategy for disrupting operations and creating risk is also a part of the overall approach. To the extent appropriate, please describe the United States strategy for the disruption of illicit fentanyl trafficking.

ANSWER: The Office of National Drug Control Policy (ONDCP) leads the interagency effort to implement the *National Drug Control Strategy* (NDCS), which clearly establishes the strategic framework that guides the Federal Government's efforts to reduce both the supply and the demand for illicit fentanyl and its analogues in the United States, and indeed all drugs that are harming individuals and negatively impacting the safety of America's communities.

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5. What are some of the ballooning effects we could see if the scheduling of fentanyl in China is effective in reducing the supply coming from China?

ANSWER: The Chinese class scheduling action may lead drug manufacturers and traffickers to shift their manufacturing and trafficking efforts to fentanyl analogues outside of the class scheduling or to non-fentanyl synthetic opioids to circumvent law enforcement. Criminals may also shift Chinese production to ingredients, or precursors, needed to make fentanyl, and produce fentanyl closer to the U.S. market.

- a. If so, do we expect there to be a shift of fentanyl production to other countries, like India?

ANSWER: We may indeed see drug traffickers in other countries begin to supply, or amplify their current trafficking of illicit fentanyl, fentanyl-related substances, non-fentanyl synthetic opioids, and their precursors. Currently, these are primarily produced overseas in countries with large chemical or pharmaceutical industries, particularly China. Manufacturers in other countries, such as India, the Netherlands, and Bangladesh, have the potential to become increasingly involved in supplying illicit synthetic opioids and their precursors if substantial law enforcement action is conducted by China to dramatically disrupt the flow of these illicit drugs into the United States. We may also begin to see drug traffickers in Mexico become more independent in synthesizing precursors and illicit drugs for their U.S.-bound illicit fentanyl, fentanyl-related substances, and non-fentanyl synthetic opioids. Finally, we may see domestic manufacturing develop within our own borders.

Within the annual Heroin Availability Reduction Plan (HARP), ONDCP works with our interagency partners to identify future trends and conduct a gap analysis to reshuffle priorities. Through our U.S. Embassy Mexico engagements we have seen Mexico take steps to disrupt domestic fentanyl production. Similarly, we have engaged our interagency partners and the intelligence community to identify any changes to the illicit drug market to include significant changes in global flows, geographic transitions from plant-based to synthetic-based markets, and diversion or production within the United States.

6. Is there reason to believe that pharmaceutical or chemical companies produce fentanyl as a third-shift operation at Chinese pharmaceutical factories?

ANSWER: At present there is insufficient information to make a determination on this question. Whether fentanyl or its analogues are manufactured during normal business operations with the witting complicity of the business owners and operators, or as a so-called “third-shift operation” by clandestine actors at the same facility, is difficult to determine. Further, it is also difficult to determine why certain chemicals that have legitimate and licit uses are manufactured, whether they be expressly for the purpose of supplying the illicit drug trade, or for legitimate uses but are later diverted away from the intended legitimate market.

- a. If so, is such intelligence shared with the U.S. Food and Drug Administration (FDA) to see if any of the factories are associated with drug manufacturers registered with the FDA?

ANSWER: To the maximum extent possible, ONDCP makes every effort to share intelligence among Federal Departments and Agencies and, when possible, with our international partners. ONDCP routinely hosts classified community of interest meetings to share both policy and intelligence on a weekly and monthly basis. It is ONDCP’s and the United States intelligence community’s routine practice to share actionable intelligence in a timely fashion across the United States Government to include the Food and Drug Administration. This effort is enhanced by the concerted effort of the intelligence community to establish intelligence liaisons across many Federal Departments and Agencies.

7. Do we expect a shift to other drugs such as methamphetamine and cocaine?

ANSWER: Multiple shifts may occur in this dynamic environment. It is possible shifts could occur across drug classes (e.g., from fentanyl to methamphetamine or cocaine) or within drug classes (e.g., from fentanyl to U-series non-fentanyl synthetic opioids) and be user or manufacturer driven. Through the annual HARP update and the various HARP webinars, ONDCP is uniquely suited to identify these shifts and posture the Federal response accordingly.

8. What are some of the challenges that still exist when it comes to combating the fentanyl problem in the United States?

ANSWER: The greatest challenge is the expiring temporary class-wide scheduling of fentanyl-related substances (expires February 2020) and the lack of permanent class scheduling of fentanyl analogues. Expiration of the temporary order will leave a gap in U.S. law regarding fentanyl analogues. We fully expect drug traffickers to exploit that void. We will likely see a surge in smuggling of fentanyl analogues into the United States by all means possible. An increased amount of fentanyl and its analogues in the United States would be disastrous, given our ongoing efforts save lives from drug use. Prosecutions under the Analogues Act of substances previously emergency controlled would be affected, as a drug's lapse in control status could affect prosecution outcomes. This would be an enormous setback in our efforts to stem the opioid crisis in the United States. Similarly, if the United States fails to make class scheduling of fentanyl analogues permanent, we will lose substantial credibility with other international partners. If we fail to permanently schedule illicit fentanyl analogues and non-fentanyl synthetic opioids, we risk serious damage to our domestic effort to save lives and our ability to lead on this and similar issues internationally. At the same time, we must also ensure access to these substances for legitimate scientific research that may lead to the development of new treatments or other scientific advances that could help mitigate the opioid crisis.

9. How do we anticipate the threat changing over the next few months if the scheduling of fentanyl in China is effective?

ANSWER: The Chinese class scheduling action may lead drug manufacturers and traffickers to shift their manufacturing and trafficking efforts to fentanyl analogues outside of the class scheduling or to non-fentanyl synthetic opioids to circumvent law enforcement. Similarly, we may see drug traffickers in other countries begin to supply, or amplify their current trafficking of illicit fentanyl, fentanyl-related substances, non-fentanyl synthetic opioids, and their precursors. These are currently primarily produced overseas in countries with large chemical or pharmaceutical industries, particularly China. Manufacturers in other countries, such as India, the Netherlands, and Bangladesh, have the potential to become increasingly involved in supplying illicit synthetic opioids and their precursors if substantial law enforcement action is conducted by China to dramatically disrupt the flow of these illicit drugs into the United States. We may also begin to see drug traffickers in Mexico become more independent in synthesizing precursors and illicit drugs for their U.S.-bound illicit fentanyl, fentanyl-related substances, and non-fentanyl synthetic opioids. Finally, we may see domestic manufacturing develop within our own borders.

10. What synthetic opioids could emerge as alternatives to fentanyl if Chinese fentanyl restrictions are effective?

ANSWER: Any suspected non-fentanyl synthetic opioid, or analogue thereof, could emerge if Chinese fentanyl and fentanyl-class restrictions are effective. This includes, for example, U-series drugs like U-47700 and analogues of tramadol.

11. How can data collection be improved to bolster your agency's intelligence and ability to interdict packages or seize narcotics, such as fentanyl?

ANSWER: The latest increases in funding for the National Intelligence Program and the Military Intelligence Program should prove helpful across the intelligence community in improving interdiction efforts. Equally important is the recent elevation in priority of Counter Drug (CD) and Counter Transnational Organized Crime (CTOC) among the National Intelligence Priority Framework (NIPF) and the President's Intelligence Priorities.